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**FISCAL IMPACT STATEMENT**

**LS 6514**

**BILL NUMBER:** SB 139

**NOTE PREPARED:** Apr 1, 2005

**BILL AMENDED:** Mar 31, 2005

**SUBJECT:** Professional Licensing Agency.

**FIRST AUTHOR:** Sen. Meeks

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FIRST SPONSOR:** Rep. Alderman

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill contains the following provisions:

*Professional Licensing:* This bill establishes a process for renewing a license or certificate. It provides that a board may request the Attorney General's office to investigate a prohibited act committed by an applicant. It provides that the Professional Licensing Agency may stagger license or certificate renewal cycles. It provides that certain boards and commissions must establish licensing, renewal, examination, application, reinstatement, and restoration fees for licenses and certificates.

The bill also allows an applicant for registration as a professional engineer who has failed three or more exams to obtain approval from the board to take subsequent exams. It allows the board to issue a registration as a professional engineer to a person who: (1) completes an engineering curriculum and at least three years of work experience; and (2) has been registered or licensed as a professional engineer in another state for at least ten years. It also repeals corresponding provisions concerning appeals of denials of license renewals, investigation of certain complaints, and renewal fees for land surveyors.

*Investigative Funds:* The bill establishes funds to assist in investigating registered: (1) architects and landscape architects; (2) land surveyors and land surveyors in training; and (3) professional engineers and engineering interns; to be funded by a fee assessed against the registered professionals.

*Journeyman Plumber License:* The bill allows an applicant for the journeyman plumber examination to present proof of four years of certain types of plumbing trade experience.

*Registering Interior Designers:* The bill requires the Office of the Secretary of State to register interior designers and specifies licensure requirements.

*Massage Therapy Regulation:* The bill establishes the State Board of Massage Therapy to license massage therapists and specifies licensure requirements.

*Professional Employer Organizations:* The bill also requires registration and regulation by the Department of Insurance of a professional employer organization. It specifies certain requirements for conduct with respect to functions of a professional employer organization.

**Effective Date:** June 1, 2005; July 1, 2005.

**Explanation of State Expenditures:** *Professional Licensing: Administrative Law Judges* - The Professional Licensing Agency (PLA) currently provides for administrative law judges (ALJ) to render final orders in PLA boards' hearings that include proceedings in relation to disciplinary sanctions. This bill would add the cost of providing an ALJ to the list of costs that are covered by the person subject to the disciplinary sanctions. This provision should result in a savings of expenditures related to providing ALJs.

*Background Information:* The Health Professions Bureau (HPB) is similar to PLA in that it provides for the licensing of health professions. As of July 1, 2003, the cost of providing ALJs was shifted from HPB to the persons subject to disciplinary sanctions. Although HPB regulates nearly half as many licenses as PLA, HPB's expenditures on ALJs in the past may be indicative of the impact this provision could have on PLA. In FY 2004, HPB spent approximately \$7,500 to provide ALJs.

*Investigative Funds:* This bill allows the Attorney General, along with the Board of Registered Architects & Landscape Architects, Board of Registration for Professional Engineers and the Board of Registration for Land Surveyors to hire investigators and other employees to enforce the laws governing the boards' professionals. The fiscal impact is dependent on the amount of additional staff needed to carry out this provision. It is presumed the cost of additional staff will be covered by the investigative fund fee paid by the registered professionals.

*Registering Interior Designers:* This bill requires the Secretary of State to provide for the registration of interior designers. Because the Secretary of State does not currently provide registration for other trades, the fiscal impact of this provision is based on both start-up and administration costs. Start-up costs may be greater than the annual operating costs once it is established.

The Secretary of State would be responsible for overseeing the registration process, collecting fees and preparing relevant forms. Common operating costs associated with the process include: printing, postage, supplies, telephone charges, and personnel. The fiscal impact is dependent on the number of applicants. According to the Professional Licensing Agency, their cost associated with license and renewal forms is approximately \$190 per one thousand forms; postage costs \$0.25 per license and \$0.34 per renewal.

*Staff Costs:* Additional staff may be required to administer the registration process. If an additional position is needed to implement and maintain the registry, an administrative assistant position could cost \$42,400 in FY 2006 and \$42,150 in FY 2007. A data processing operator could cost roughly \$39,400 in FY 2006 and \$39,000 in FY 2007. The funds and resources required here could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2)

existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

*Computer Costs:* Although it is unknown how many interior designers might apply for registration in Indiana, it is presumed the electronic registry requirements could be fulfilled by using Microsoft Office products readily available on most state-issued computer systems. The Secretary of State may require \$1,000 to \$1,500 initially for an additional computer.

*Massage Therapy Regulation:* This bill creates the five-member Board of Massage Therapy which would establish licensure requirements for massage therapists. The Professional Licensing Agency (PLA) provides staff support for the state's professional licensing boards. Revenues from licensure are received by the state General Fund and expenditures are appropriated to PLA with augmentation from the state General Fund. Because the agency uses the same resources to support different boards and committees, it breaks down its expenditures by function rather than by board or committee. For this reason, the individual cost of any board or committee is indeterminable.

According to PLA, the common operating costs among the licensing boards include: board member per diem, travel expenses, printing, postage, supplies, telephone charges and personnel. Additional staff, such as a PAT II and Secretary III position may be required to provide support for a new board. Start-up costs for a new board may be greater than the annual operating costs once it is established. Depending on revenue balances from licenses issued by all of PLA's boards, PLA could potentially absorb a portion of the operating expenses not covered by the new board's licensing revenue.

The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. As of February, 2005, PLA employed 31 authorized full-time staff members and had 12 vacancies. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The bill requires the Board to adopt a licensing exam or approve an examination other than the National Certification Exam for Therapeutic Massage and Bodywork to provide to an applicant for licensure as a massage therapist. If the Board develops an examination for massage therapy licensure, additional expenses could occur.

*Professional Employer Organizations:* The DOI would oversee the registration of a PEO. Although the number of PEOs that would require registration is not known, if a significant number apply for registration, the DOI would need an additional COMOT II to implement the program. Total additional staffing costs are estimated at \$37,345, which includes fringe benefits and indirect costs. The source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The bill provides that a PEO must maintain a minimum net worth of \$50,000 or a bond with a market value of \$50,000. The bond must be held by a depository designated by the DOI. This provision is not expected to have a great impact on DOI expenditures.

The DOI may adopt rules to implement the program and must adopt rules to specify fees. The DOI should be able to promulgate rules given its current level of budget and resources.

**Explanation of State Revenues:** *Professional Licensing: Licensure Fees* - Currently, many of the professions that require licensure by boards or commissions under the Professional Licensing Agency have licensure fees set by statute. This bill deletes these fees from statute and requires the boards and commissions to establish fees related to the licensure of those professions.

The boards and commissions affected by the provision include the:

- Board of Registered Architects and Landscape Architects.
- Auctioneer Commission.
- State Board of Barber Examiners.
- State Board of Cosmetology Examiners.
- Boxing Commission.
- Board of Funeral and Cemetery Service.
- Board of Registration for Landscape Surveyors.
- Plumbing Commission.
- Private Detectives Licensing Board.
- Board of Registration for Professional Engineers.
- Real Estate Commission.

Current law provides that all fees must be set so as to cover all costs of professional licensing. Assuming current licensure fees are set to cover the costs of providing professional licenses, this provision should not decrease the amount of revenue generated by fees when set by the boards or commissions. However, this provision could potentially increase the amount of revenue collected if fees are set at a higher rate by a board or commission as compared to those currently set by statute. The total amount of fee revenue will be dependent on the actions of the boards and commissions.

*Investigative Funds:* This provision creates investigative fund fees, that are in addition to the normal registration fees, to fund the investigations of registered: (1) architects and landscape architects; (2) land surveyors and land surveyors in training; and (3) professional engineers and engineering interns. The fee may be up to \$20, and is to be used for hiring staff to enforce the affected registration laws and investigate the registered professionals. According to the Professional Licensing Agency, there were 5,595 architect and landscape architect registrations, 2,073 land surveyor and land surveyor in training registrations, and 39,353 engineer intern and professional engineer registrations as of October 2004. If the maximum amount of \$20 per registrant was charged by the affected boards, the revenue generated by 47, 021 registrants would be approximately \$9.4 M every two years. This revenue would be used by the Professional Licensing Agency as well as Attorney General.

The bill provides that money in the investigative funds do not revert to the General Fund at the end of the fiscal year, however, any amount remaining over \$500,000 at the end of the fiscal year after all expenses are made must be reverted to the General Fund. This amount is dependent on the actual fees charged and the expenses created by additional staff hired. The bill also provides that money in the funds is continually appropriated for use by the Attorney General and the Professional Licensing Agency.

*Registering Interior Designers:* The bill establishes fees for the registration of interior designers. An initial registration fee and the biennial renewal fee are both \$100. The fee for restoring a registration is \$300. All

revenue generated by the fees is to be deposited in the Electronic and Enhanced Access Fund. Money in this fund is used by the Secretary of State to improve and enhance its technological service to its customers. It is continuously appropriated and may be used to implement the registration process. The amount of revenue that will be generated by this proposal is indeterminable, but will depend on the number of interior designers who seek certification.

*Penalty Provision* - A person who: claims another's certification as their own; intentionally gives false information to the Secretary; impersonates another certified designer; or uses an expired, suspended, or revoked registration commits a Class B misdemeanor.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

*Massage Therapy Regulation*: This bill would establish licensure of massage therapists. Data acquired from the National Certification Exam for Therapeutic Massage and Bodywork (NCETMB) indicates that approximately 470 practicing massage therapists are currently accredited by the NCBTMB in Indiana. The amount of revenue potentially generated from issuing a new license is dependent on the number of professional massage therapist applicants. All revenue collected from fees from the licensure of massage therapists would be collected and accounted for by the PLA and deposited in the state General Fund.

The bill allows the Board to issue a license to any applicant that enrolled in, before March 1, 2005, (and completes before January 1, 2006) a 500-hour massage therapy school or program that was in good standing with any state, regional, or national government that regulates massage therapy or programs. Massage therapists attending or finishing an out-of-state recognized school or program within the above time limits would be able to more easily receive a license to practice massage therapy in Indiana. A license may also be issued by endorsement when certain requirements are met, including paying a fee determined by the Board. Any impact to fees collected would be determined by the number of massage therapists choosing to apply for licensure in Indiana that qualify under this provision.

The bill also allows the Board to impose a civil penalty up to \$5,000 on any person who: practices, or offers or attempts to practice, massage therapy without being licensed; or aids or employs a person not authorized to use the professional title. This penalty is in addition to any other penalty provided for by law.

*Penalty Provision* - Violations of the licensure provisions would constitute a Class C misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

*Professional Employer Organizations*: A PEO must pay an initial registration fee under IC 27-16-3-2 not to

exceed \$500. Upon the filing of an annual renewal of a registration, a PEO must pay a renewal fee not to exceed \$250. A PEO seeking registration under IC 27-16-3-7 must pay an initial and annual fee not to exceed \$250. Upon initial application for limited registration and upon each annual renewal of the limited registration, a PEO must pay a fee not to exceed \$250. The bill also provides for penalty fees of \$250 per day for the first 10 days for failure to file a timely annual report, with a \$500 fine for every day thereafter. Fees collected must be deposited in the Department of Insurance fund.

*Tax Credits.* For purposes of determination of tax credits and other economic incentives provided by the state or another governmental entity and based on employment, a covered employee is considered an employee solely of the client. A client is entitled to the benefit of any tax credit, economic incentive, or other benefit arising as the result of the employment of a covered employee of the client. In the case of tax imposed or calculated upon the basis of total payroll, a PEO is eligible to apply a small business allowance or exemption available to the client for covered employees for the purpose of computing the tax.

*Penalty Provision.* Violators commit a Class B misdemeanor.

**Explanation of Local Expenditures:** *Registering Interior Designers & Professional Employer Organizations: Penalty Provision* - A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

*Massage Therapy Regulation: Penalty Provision* - A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44

**Explanation of Local Revenues:** *Penalty Provision* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

*Massage Therapy Regulation:* The bill repeals the fee involved for the required fingerprinting of massage therapists. Local law enforcement units were involved with fingerprinting and fee collection. Localities would lose revenue as a result of the removal of the fee, but would have a corresponding reduction in expenditures. This bill also provides that state law relating to massage therapy supercedes an ordinance or regulation adopted by a municipality or county related to the licensing or registration of massage therapists. However, state law does not affect local regulation relating to occupational license fees adopted by a municipality or county pertaining to massage therapists.

**State Agencies Affected:** Professional Licensing Agency; Secretary of State; DOI; Attorney General.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** IC 25-1-8-2(c); Health Professions Bureau; *FY 2003 Indiana Handbook of Taxes, Revenues and Appropriations*; IC 4-5-10-5; Professional Licensing Agency; National Certification Exam for

Therapeutic Massage and Bodywork, [www.ncbtmb.com](http://www.ncbtmb.com); National Commission of Certifying Agencies; Amy Strati, Acting Commissioner, DOI, 232-2404.

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